

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION II

SDMS Document



108608

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IN THE MATTER OF THE CORNELL-DUBILIER:  
ELECTRONICS SUPERFUND SITE :  
: :  
: :  
D.S.C. of Newark, Inc. :  
Federal Pacific Electric Company :  
: ADMINISTRATIVE  
Respondents : ORDER  
: FOR REMOVAL ACTION  
Proceeding under Sections 106(a) :  
of the Comprehensive : Index Number  
Environmental Response, Compensation, : CERCLA-02-99-2012  
and Liability Act, as amended, :  
42 U.S.C. §9606(a) :  
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TABLE OF CONTENTS

I. JURISDICTION AND GENERAL PROVISIONS . . . . .	1
II. PARTIES BOUND . . . . .	1
III. DEFINITIONS . . . . .	2
IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW . . . . .	3
V. DETERMINATIONS . . . . .	8
VI. ORDER . . . . .	8
Designation of Contractor and Project Coordinator . . . . .	9
Description of Work . . . . .	10
On-scene Coordinator, Other Personnel, and Modifications . . . . .	13
Plans and Reports Requiring EPA Approval . . . . .	14
Reporting . . . . .	14
Oversight . . . . .	17
Community Relations . . . . .	17
Access to Property and Information . . . . .	17
Record Retention, Documentation, Availability of Information . . . . .	19
Off-Site Shipments . . . . .	19
Compliance With Other Laws . . . . .	20

Emergency Response and Notification of Releases . . . . .	20
Delay in Performance . . . . .	21
Enforcement and Reservation of Rights . . . . .	22
Other Claims . . . . .	23
Insurance . . . . .	23
Financial Assurance . . . . .	24
Modifications . . . . .	24
Termination and Satisfaction . . . . .	24
Opportunity to Confer and Effective Date . . . . .	24
Notice of Intent to Comply . . . . .	25

## I. JURISDICTION AND GENERAL PROVISIONS

1. This Administrative Order ("Order") is issued by the United States Environmental Protection Agency ("EPA") to the above-captioned Respondents ("Respondents").
2. This Order provides for the performance of a removal action by Respondents in connection with the Cornell-Dubilier Electronics Superfund Site ("Site"), located in the City of South Plainfield, Middlesex County, New Jersey.
3. This Order is issued pursuant to the authority vested in the President of the United States by Sections 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. §9606(a), and delegated to the Administrator of EPA on January 23, 1987, by Executive Order No. 12580 (52 Federal Register 2926, January 29, 1987) and further delegated to the EPA Regional Administrators by EPA Delegation Nos. 14-14-A and 14-14-B.
4. EPA has notified the New Jersey State Department of Environmental Protection of this Order pursuant to Section 106(a) of CERCLA, 42 U.S.C. §9606(a).

## II. PARTIES BOUND

5. This Order applies to and is binding upon Respondents and their successors and assigns. Any change in the ownership or corporate status of any Respondent, including, but not limited to, any transfer of assets or real or personal property, shall not alter the responsibilities of any of the Respondents under this Order. Respondents are jointly and severally responsible for carrying out all activities required by this Order. Compliance or noncompliance by one or more Respondents with any provision of this Order shall not excuse or justify non-compliance by any other Respondents.
6. Each Respondent shall provide a copy of this Order to any prospective owners or successors before a controlling interest in said Respondent's assets, property rights, or stocks are transferred to the prospective owner or successor.
7. Not later than sixty (60) days prior to the transfer by a Respondent of any real property interest in any property included within the Site, said Respondent shall submit a true and correct copy of the transfer document(s) to EPA, and shall identify the transferee by name, principal business address and effective date of the transfer.

### III. DEFINITIONS

8. Unless otherwise expressly provided herein, terms used in this Order which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or its implementing regulations. Whenever terms listed below are used in this Order or in an attachment to this Order, the following definitions shall apply:

a. "Day" means a calendar day unless otherwise expressly stated. "Working day" shall mean a day other than a Saturday, Sunday, or Federal holiday. In computing any period of time under this Order, where the last day would fall on a Saturday, Sunday, or Federal Holiday, the period shall run until the close of business on the next working day.

b. "Hazardous substance" shall have the meaning provided in Section 101(14) of CERCLA, 42 U.S.C. §9601(14).

c. "Parties" means the United States Environmental Protection Agency and Respondents.

d. "Performing Parties" means Cornell-Dubilier Electronics, Inc. and Dana Corporation which entered into an Administrative Order on Consent with EPA to conduct the removal actions required by this Order.

e. "Residential Areas" means the residential properties located outside the Site in South Plainfield, NJ referred to in Paragraphs 18 and 46 in this Order, including the soil and interior surfaces of the structures at those properties.

f. "Respondents" shall mean D.S.C. of Newark, Inc. and Federal Pacific Electric Company.

g. "Waste" means (1) any "hazardous substance" under Section 101(14) of CERCLA, 42 U.S.C. §9601(14); (2) any "pollutant or contaminant" under Section 101(33) of CERCLA, 42 U.S.C. §9601(33); (3) any "solid waste" under Section 1004(27) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §6903(27); and (4) any mixture containing any of the constituents noted in (1), (2) or (3), above.

h. "Work" means all work and other activities required by and pursuant to this Order.

#### IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

9. The Site is located at 333 Hamilton Boulevard in South Plainfield, Middlesex County, New Jersey. The Site is an active industrial park, currently known as the Hamilton Industrial Park.

10. The Bound Brook traverses the southeast corner of the Site property. Stream width varies from ten (10) to twenty (20) feet across the site, with a varying depth of approximately one (1) to three (3) feet. The Cedar Creek flows into the Bound Brook approximately 0.75 miles before emptying into New Market Pond. Surface water flow from New Market Pond travels approximately 8.5 miles before discharging into the Raritan River. All of the above-mentioned water bodies are designated by the State of New Jersey for the maintenance, migration, and propagation of the natural and established biota. These water bodies are reportedly utilized as freshwater fisheries. There are approximately 34 acres of wetlands within 0.5 miles of the Site. Wetlands that border the Site to the southeast diminish significantly as the creek heads downstream towards the northeast.

11. The Site occupies approximately twenty-five (25) acres in an industrial, commercial, and residential area. Approximately 540 persons reside within 0.25 miles of the Site, with the nearest residential homes being located on Spicer Avenue and on Hamilton Boulevard, less than 200 feet from the Site.

12. The Site is known as Hamilton Industrial Park and is occupied by approximately fifteen (15) commercial businesses. Through the years, numerous companies have operated at the Site as tenants.

13. Cornell-Dubilier Electronics Inc. owned and/or operated at the Site from 1936 to 1962 manufacturing electronic components including capacitors. It is alleged that during its operation at the Site, Cornell-Dubilier Electronics, Inc. disposed of polychlorinated biphenyl (PCB) contaminated materials and other hazardous substances on-site.

14. On or about February 4, 1997, EPA notified D.S.C. of Newark Enterprises, Inc. and Cornell-Dubilier Electronics, Inc. of their potential liability for the Site. D.S.C. of Newark Enterprises, Inc. is the current Site owner. On or about March 25, 1997, EPA issued an Administrative Order to D.S.C. of Newark Enterprises, Inc. to perform certain response actions at the Site. These actions included measures to restrict access to certain areas of the Site and to implement certain engineering controls at the Site. After notifying Cornell-Dubilier Electronics, Inc. and D.S.C. of Newark Enterprises, Inc. on February 4, 1997, EPA identified

additional potentially responsible parties (PRPs) for the Site including the Respondents below:

a: Dana Corporation owned the Site at the time of disposal of hazardous substances;

b: Dana Corporation Foundation owned the Site at the time of disposal of hazardous substances; and

c: Federal Pacific Electric Company owned the Site at the time of disposal of hazardous substances.

15. On September 11, 1986, representatives of the New Jersey Department of Environmental Protection (NJDEP) conducted a site inspection and collected soil, surface water, and sediment samples at the Site. On June 6, 1990, NJDEP issued a Notice of Violation to a tenant at the industrial park, Norpak Corporation, for groundwater contamination. On July 7, 1994, NJDEP entered into a Memorandum of Agreement with D.S.C. of Newark Enterprises, Inc. to conduct remedial activities associated with the Norpak Corporation fuel oil release. NJDEP referred the Site to EPA for CERCLA removal action on April 3, 1997.

16. The Site was added to the National Priorities List (NPL) on July 27, 1998. The NPL, codified at 40 CFR Part 300, Appendix B, has been promulgated pursuant to Section 105(8)(b) of CERCLA, 42 U.S.C. §9605(a)(8)(B).

17. The results of EPA's sampling and analyses indicate elevated concentrations of volatile organic compounds (VOCs), semi-volatile organic compounds, PCBs and inorganic constituents in the soils at the Site. The results of soil samples collected at the Site summarized below:

a. On June 8, 1994, the U.S. EPA collected soil samples from the Site. PCBs and lead were detected in soil at concentrations up to 1,100 milligrams per kilogram (mg/kg) and 2,200 mg/kg, respectively. Aroclor-1254, a PCB was detected in soil at concentrations ranging from 6.9 mg/kg to 1100 mg/kg. Heavy metals were detected in the soil at maximum concentration as follows: arsenic (25.7 mg/kg), cadmium (36.7 mg/kg), chromium (78.6 mg/kg), copper (3,020 mg/kg), mercury (2.9 mg/kg), silver (26.7 mg/kg), and zinc (1,380 mg/kg).

b. On June 27 and 29, 1996, the U.S. EPA collected surface and subsurface soil samples from a roadway, a vacant field, and a foot/bike path on the Site. The following is a brief summary of the analytical data for the above soil samples:

i. The maximum Aroclor-1254 concentration (51,000 mg/kg) detected in the surface soil was collected near the northeast corner of the fenced area, where electrical and transformer parts were exposed in a swale. Additional surface soil samples collected within the fenced area indicated the presence of Aroclor-1254 at 98 mg/kg, 270 mg/kg, and 4,700 mg/kg.

ii. The maximum Aroclor-1254 concentration detected on the surface of the Site roadway was 340 mg/kg. The average Aroclor-1254 detected on the surface of the Site roadway was 87.5 mg/kg. The maximum concentrations of Aroclor-1254 detected just beneath the unpaved stone/gravel layer of the Site roadway, ranged from 1,000 mg/kg to 22,000 mg/kg.

iii. Elevated levels of Aroclor-1254 (90 mg/kg to 3,000 mg/kg) were also detected at the surface, along and in the vicinity of, the foot/bike path at the rear portion of the Site. A sample collected in the flood plain of the stream, down slope from the exposed waste, contained 100 mg/kg of Aroclor-1254.

iv. The average lead concentration detected on the surface of the Site roadway was 167.6 mg/kg. The maximum lead and cadmium concentrations on the surface of the Site roadway were 340 mg/kg and 19 mg/kg, respectively. The concentration of lead detected beneath the unpaved stone/gravel layer of the Site roadway ranged from 1,740 mg/kg to 7,460 mg/kg. Cadmium was also detected at a concentration of 373 mg/kg. Some of the highest levels of lead (1,740 mg/kg - 66,600 mg/kg) and cadmium (43 mg/kg - 271 mg/kg) were noted near the foot/bike path and the northeast corner of the fenced area, within the area where the exposed waste is present.

c. On July 16, 1996 test pits were excavated in the vacant field and additional soil samples were collected. The test pits revealed stained subsurface soils, drum carcasses, electrical parts, mica-like chips, wood, and debris. Aroclor-

1254 and lead were detected at concentrations as high as 1,900 mg/kg and 1,970 mg/kg, respectively, in samples collected from the test pits.

18. Hazardous substances including PCBs have migrated from the Site to adjacent residential properties. The results of samples collected from Residential Areas are summarized below:

a. In October and November 1997, U.S. EPA collected soil and/or interior house dust samples at residential properties located in the vicinity of the Site in South Plainfield, NJ. Aroclor-1254 and Aroclor-1260 were detected in soil samples collected at concentrations as high as 22 mg/kg and 2.2 mg/kg, respectively. Aroclor-1254 and Aroclor-1260 were detected in dust samples at concentrations as high as 120 ppm and 85 ppm, respectively.

b. In April 1998, U.S. EPA collected soil and/or interior house dust samples from additional residential properties located in the vicinity of the Site in South Plainfield, NJ. Aroclor-1254 and Aroclor-1260 were detected in soil samples collected at concentrations as high as 60 mg/kg and 4.6 mg/kg, respectively. Aroclor-1254 and Aroclor-1260 were detected in dust samples collected at concentrations as high as 21 ppm and 3.4 ppm, respectively. Aroclor-1242 was detected in one interior dust sample at a concentration of 3.6 ppm.

19. On or about August 6, 1998, EPA entered into an Administrative Order on Consent with Cornell-Dubilier Electronics, Inc. and D.S.C. of Newark Enterprises, Inc. to perform certain response actions at the Site. These actions included removal and disposal of PCB contaminated soil from five residential properties sampled by EPA in November 1997.

20. On or about February 23, 1999, EPA entered into an Administrative Order on Consent with Cornell-Dubilier Electronics, Inc. and Dana Corporation to perform certain response actions at the Site. These actions included removal and disposal of PCB contaminated soil from seven residential properties sampled by EPA in April 1998.

21. Exposure to the various hazardous substances detected at the Site and the Residential Areas by direct contact, inhalation, or ingestion may, if not controlled, cause a variety of adverse human health effects. Under certain circumstances, PCBs are readily absorbed into the body. They may persist in tissues for years after exposure stops. Chemical acne, dark patches on skin, burning eyes and skin, and unusual eye discharge have been reported by all



routes of exposure. Generally, onset may not occur for months. These effects may last for months. Liver damage and digestive disturbance have been reported. PCBs may impair the function of the immune system and at high levels have been shown to produce cancer and birth defects in laboratory animals. PCBs have the ability to bioaccumulate to concentrations that are toxic. A number of human studies indicate that PCBs can cross the placenta and locate in the fetus. PCBs also have the ability to concentrate in human breast milk.

22. On December 17, 1998 ATSDR issued a Public Health Consultation for the Site which addresses health concerns for residents of homes sampled by EPA in October 1997 and April 1998 from exposure to PCBs in indoor dust and surface soils. Based on a review of the data from these sampling events, ATSDR concluded that the levels of PCBs detected in indoor dust and surface soils may pose a health concern or a potential health concern to residents and recommended that actions be taken to reduce or stop potential exposure to indoor dust and surface soil contaminated with PCBs.

23. The contaminants found at the Site and the Residential Areas including PCBs, Aroclor-1254 and Aroclor-1260 are "hazardous substances" as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

24. The conditions described in Paragraphs 9 through 18 above constitute a "release" as defined in Section 101(22) of CERCLA, 42 U.S.C. §9601(22). In addition, there is a threat of further releases of hazardous substances at and from the Site and the Residential Areas.

25. Exposure to the various hazardous substances present at the Site and the Residential Areas by direct contact, inhalation, or ingestion may, if not controlled, cause a variety of adverse human health effects.

26. The continuing release of hazardous substances present at the Site and the Residential Areas may impact the human health, the environment and the sensitive ecosystems.

27. The Site constitutes a "facility" within the meaning of Section 101(9) of CERCLA, 42 U.S.C. §9601(9). Each of the residential properties at which hazardous substances were detected in soil and/or in interior dust samples, as referenced to in Paragraph 18, above, is a "facility" within the meaning Section 101(9) of CERCLA, 42 U.S.C. §9601(9).

connection with the Site under one or more subsections of Section 107(a) of CERCLA, 42 U.S.C. §9607(a).

29. EPA invited the Respondents to enter into an Administrative Order on Consent to voluntarily perform the removal action set forth in this Order, but the Respondents declined.

#### V. DETERMINATIONS

30. The conditions present at the Site and at the Residential Areas constitute a threat to public health, welfare, or the environment based upon factors set forth in Section 300.415(b)(2) of the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"). These factors include, but are not limited to, the following conditions:

- a. actual or potential exposure to nearby human populations, animals or the food chain from hazardous substances or pollutants or contaminants;
- b. actual or potential contamination of sensitive ecosystems; and
- c. high levels of hazardous substances or pollutants or contaminants in soils largely at or near the surface, that may migrate.

31. The actual or threatened release of hazardous substances from the Site and the Residential Areas may present an imminent and substantial endangerment to the public health, welfare, or the environment within the meaning of Section 106(a) of CERCLA, 42 U.S.C. §9606(a).

32. The actions required by this Order are necessary to protect the public health or welfare or the environment, are in the public interest, and are consistent with CERCLA and NCP, 40 CFR Part 300.

#### VI. ORDER

33. Based upon the foregoing Findings of Fact, Conclusions of Law, and Determinations, and other information available to EPA, it is hereby ordered that Respondents shall comply with the following provisions, all documents incorporated by reference into this Order, and all schedules and deadlines in this Order, attached to this Order, or incorporated by reference into this Order.

into this Order, and all schedules and deadlines in this Order, attached to this Order, or incorporated by reference into this Order.

Designation of Contractor and Project Coordinator

35. The Performing Parties have selected as their Project Coordinator Mr. Michael Scott of Environ Corporation, 214 Carnegie Center, Princeton, NJ 08540-6284 and EPA has approved that selection. The Project Coordinator shall be responsible for overseeing the Respondents' (in cooperation and coordination with Performing Parties) implementation of this Order. Respondents (in cooperation and coordination with Performing Parties) may change the Project Coordinator, subject to approval by EPA as set forth in this Paragraph. Respondents (in cooperation and coordination with Performing Parties) shall notify EPA at least seven (7) days before such a change is made, identifying the name and qualifications of the new Project Coordinator. The initial notification may be orally made but it shall be promptly followed by a written notice. Respondents shall coordinate and cooperate with the Performing Parties and the selected Project Coordinator. To the greatest extent possible, the Project Coordinator shall be present on Site or readily available during Site work. The Project Coordinator shall have technical expertise sufficient to adequately oversee all aspects of the work contemplated by this Order. EPA retains the right to disapprove of any Project Coordinator proposed by Respondents. If EPA disapproves of a proposed Project Coordinator, Respondents (in cooperation and coordination with Performing Parties) shall propose a different Project Coordinator and shall notify EPA of that person's name, address, telephone number, and qualifications within seven (7) days following EPA's disapproval. Receipt by Respondents' approved Project Coordinator of any notice or communication from EPA relating to this Order shall constitute receipt by Respondents

36. All Work performed under this Order shall be under the direction and supervision of qualified personnel. Before the Work outlined below begins, Respondents (in cooperation and coordination with the Performing Parties) shall notify EPA in writing of the names, titles, and qualifications of the personnel, including contractors, subcontractors, consultants and laboratories to be used in carrying out such Work. The qualifications of the persons undertaking the Work for Respondents (in cooperation and coordination with the Performing Parties) shall be subject to EPA's review, for verification that such persons meet minimum technical background and experience requirements.

37. EPA retains the right to disapprove of any, or all, of the contractors and/or subcontractors proposed by the Respondents to conduct the Work. If EPA disapproves of any of Respondents' proposed contractors or subcontractors to conduct the Work, Respondents shall propose a different contractor or subcontractor within seven (7) days of EPA's disapproval.

38. Respondents (in cooperation and coordination with the Performing Parties) shall provide a copy of this Order to each contractor and subcontractor approved and retained to perform the work required by this Order. Respondents shall include in all contracts or subcontracts entered into for work required under this Order provisions stating that such contractors or subcontractors, including their agents and employees, shall perform activities required by such contracts or subcontracts in compliance with this Order and all applicable laws and regulations. Respondents shall be responsible for ensuring that its contractors and subcontractors perform the work contemplated herein in accordance with this Order.

39. Respondents shall direct all submissions required by this Order to the EPA On-Scene Coordinator by certified mail at the address provided in paragraph 61.

#### Description of Work

40. On February 24, 1999, Cornell-Dubilier Electronics, Inc. and Dana Corporation entered into an Administrative Order on Consent with EPA to conduct the same removal actions as those required by this Order.

41. Respondents shall make best efforts to coordinate with the Performing Parties. Best efforts to coordinate shall include, at a minimum:

- a. Communication in writing within ten (10) days of the effective date of this Order to the Performing Parties as to Respondents' desire to comply with this Order and to participate in the performance of the Work or, in lieu of performance, to pay for the performance of the Work in whole or in part;

- b. submission within twenty (20) days of the effective date of this Order of a good-faith offer to the Performing Parties to perform the Work, in whole or in part or, in lieu of performance, to pay for the Work, in whole or in part; and

c. engaging in good-faith negotiations with the Performing Parties to perform the Work, in whole or in part or, in lieu of performance, to pay for the Work required by this Order, in whole or in part, if such Performing Parties refuse Respondents' first offer.

42. Respondents shall make best efforts to participate in the performance of the Work with the Performing Parties. Best efforts to participate shall include, at a minimum:

a. performance of such portion of the Work that Respondents and the Performing Parties agree shall be undertaken by Respondents, pursuant to the EPA-approved Work Plan referred to below in this Section; and

b. payment of all amounts as agreed by Respondents and the Performing Parties to be paid by Respondents if, in lieu of performance, Respondents have offered to pay for the Work required by this Order, in whole or in part.

43. Respondents shall provide EPA with notice of their intent to comply with this Order, consistent with Paragraph 101 below and shall specify Respondents' proposed manner of compliance with this Order. In addition, Respondents shall notify EPA in writing within five (5) days of the rejection, if any, by any Performing Party of Respondents' offer to perform or, in lieu of performance, to pay for the Work.

44. The undertaking or completion of any requirement of this Order by any other person, with or without the participation of Respondents, shall not relieve Respondents of their obligation to perform each and every other requirement of this Order.

45. Respondents are jointly and severally responsible with the Performing Parties for carrying out all activities required by this Order. Any failure to perform, in whole or in part, any requirement of this Order by any other person with whom Respondents are coordinating or participating in the performance of such requirement shall not relieve Respondents of their obligation to perform each and every requirement of this Order.

46. Respondents in cooperation and coordination with the Performing Parties shall participate in implementation of the EPA-approved Work Plan providing for the performance of the following tasks:

a. Obtain access necessary to the performance of all required Work in accordance with Paragraphs 67 through 72 below.

b. Delineation of the vertical and horizontal extent of PCB contamination in soil above 1 mg/kg at residential properties located at 207 Delmore Avenue, 403 Hamilton Boulevard, 115 Delmore Avenue, 346 Hamilton Boulevard, 511 Hamilton Boulevard, 119 Delmore Avenue, and 229 Delmore Avenue in South Plainfield New Jersey which were identified in the Tier II Residential Sampling and Analysis Summary Report as properties U, W, X, AA, BB, CC and DD respectively.

c. Excavation, removal and off-site disposal of PCB contaminated soil from properties identified in Paragraph 46 (b). The extent of soil removal at each of these properties shall be determined such that the 95% upper confidence limit (UCL) of the arithmetic mean PCB concentration in surface soils in the portion of the property not excavated shall not exceed 1.0 mg/kg.

d. Post-excavation sampling to verify attainment of cleanup objectives. Excavation shall be considered complete when the 95% UCL of the arithmetic mean PCB concentration for the post-excavation samples combined with the remaining surface soil samples from the portion of the property not excavated does not exceed 1.0 mg/kg. In cases where Aroclor 1254 and/or Aroclor 1260 are not detected in a sample, values equal to ½ of the detection limit will be substituted in all calculations. Post excavation sampling shall at a minimum include:

- i. the collection of one sample at the bottom of each sidewall for every thirty (30) linear feet of sidewall; and

- ii. the collection of one sample from the excavation bottom for every 900 square feet of bottom area.

e. Restoration of properties disturbed as a result of these actions to pre-construction conditions.

f. Temporary relocation of residents during soil removal and restoration activities as necessary to perform the Work.

g. Coordination of activities with residents and the community.

47. Within ten (10) days after EPA's approval of the Work Plan, Respondents (in cooperation and coordination with the Participating Parties) shall commence implementation of the EPA-approved Work Plan. Respondents shall fully implement the EPA-approved Work Plan

in accordance with the terms and schedule therein and in accordance with this Order. Unless otherwise approved by EPA in writing, all Work required by this Order shall be completed within 120 days of EPA's approval of the Work Plan subject to the Respondents' obtaining of timely access to the properties to be cleaned up by this Order.

48. Respondents shall notify EPA of the names and addresses of all off-Site waste treatment, storage, or disposal facilities selected by Respondents to receive wastes from the Site and the Residential Areas. Respondents shall provide such notification to EPA at least five (5) days prior to off-Site shipment of such wastes.

49. At the time of completion of all activities required by this Order, demobilization shall include sampling if deemed necessary by EPA, and proper disposal or decontamination of protective clothing, remaining laboratory samples taken pursuant to this Order, and any equipment or structures constructed to facilitate the cleanup.

On-Scene Coordinator, Other Personnel, and Modifications  
to EPA-Approved Work Plan

50. All activities required of Respondents under the terms of this Order shall be performed only by qualified persons possessing all necessary permits, licenses, and other authorizations required by federal, state, and local governments, and all work conducted pursuant to this Order shall be performed in accordance with prevailing professional standards.

51. The current EPA On-Scene Coordinator ("OSC") for the Site is: Mr. Eric Wilson, Removal Action Branch, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, 2890 Woodbridge Avenue, Building 209 (MS-211), Edison, N.J. 08837, (732) 906-6991. EPA will notify the Project Coordinator if EPA's On-Scene Coordinator should change.

52. EPA, including the OSC, will conduct oversight of the implementation of this Order. The OSC shall have the authority vested in an OSC by the NCP, including the authority to halt, conduct, or direct any work required by this Order, or to direct any other response action undertaken by EPA or Respondents at the Site and at the Residential Areas consistent with Paragraph 46 of this Order. Absence of the OSC from the Site or the Residential Areas shall not be cause for stoppage of work unless specifically directed by the OSC.

53. As appropriate during the course of implementation of the actions required of Respondents pursuant to this Order, Respondents or their consultants or contractors, acting through the Project Coordinator, may confer with EPA concerning the required actions. Based upon new circumstances or new information not in the possession of EPA on the date of this Order, the Project Coordinator may request, in writing, EPA approval of modification(s) to the EPA-approved Work Plan. Only modifications approved by EPA in writing shall be deemed effective. Upon approval by EPA, such modifications shall be deemed incorporated in this Order and shall be implemented by Respondents.

#### Plans and Reports Requiring EPA Approval

54. If EPA disapproves or otherwise requires any modifications to any plan, report or other item required to be submitted to EPA for approval pursuant to this Order, Respondents shall have fourteen (14) days from the receipt of notice of such disapproval or the required modifications to correct any deficiencies and resubmit the plan, report, or other written document to EPA for approval, unless a shorter or longer period is specified in the notice. Any notice of disapproval will include an explanation of why the plan, report, or other item is being disapproved. Respondents shall address each of the comments and resubmit the plan, report, or other item with the required changes within the time stated above. At such time as EPA determines that the plan, report, or other item is acceptable, EPA will transmit to Respondents a written statement to that effect.

55. If any plan, report, or other item required to be submitted to EPA for approval pursuant to this Order is disapproved by EPA, even after being resubmitted following Respondents' receipt of EPA's comments on the initial submittal, Respondents shall be deemed to be out of compliance with this Order. If any resubmitted plan, report, or other item, or portion thereof, is disapproved by EPA, EPA may again direct Respondents to make the necessary modifications thereto, and/or EPA may amend or develop the item(s) and recover the costs from Respondents of doing so. Respondents shall implement any such item(s) as amended or developed by EPA.

56. EPA shall be the final arbiter in any dispute regarding the sufficiency or acceptability of all documents submitted and all activities performed pursuant to this Order. EPA may modify these documents and/or perform additional work unilaterally or require the Respondent to undertake such work.



57. All plans, reports and other submittals required to be submitted to EPA pursuant to this Order, upon approval by EPA, shall be deemed to be incorporated in and an enforceable part of this Order.

#### Reporting

58. During the implementation of this Order, Respondents shall provide written progress reports to EPA every two (2) weeks which fully describe all actions and activities undertaken pursuant to this Order. Such progress reports shall, among other things, (a) describe the actions taken toward achieving compliance with this Order during the previous two-week period, (b) include all results of sampling and tests and all other data received by Respondents during that period in the implementation of the Work required hereunder, (c) describe all actions which are scheduled for the next two-week period, (d) provide other information relating to the progress of work as is customary in the industry, (e) and include information regarding percentage of completion, all delays encountered or anticipated that may affect the future schedule for completion of the Work required hereunder, and a description of all efforts made to mitigate those delays or anticipated delays.

59. Respondents shall include in the biweekly progress reports required in Paragraph 58, above, a schedule for the field activities which are expected to occur pursuant to this Order during the upcoming month. Respondents shall, in addition, provide EPA with at least one week advance notice of any change in that schedule.

60. The Final Report referred to in Paragraph 62, below, and other documents submitted by Respondents to EPA which purport to document Respondents' compliance with the terms of this Order shall be signed by a responsible official of one or more of the Respondents or by the Project Coordinator who has been delegated this responsibility by the Respondents and whose qualifications have been found by EPA to be acceptable pursuant to Paragraph 35 of this Order. For purposes of this Paragraph, a responsible official is an official who is in charge of a principal business function.

61. The Work Plan, the Final Report, and other documents required to be submitted to EPA under this Order shall be sent, via Certified Mail, to the following addressees:

3 copies to:

U.S. Environmental Protection Agency  
2890 Woodbridge Avenue  
Bldg. 209 (MS-211)  
Edison, NJ 08837  
Attention: Cornell-Dubilier Electronics Site On-Scene  
Coordinator

1 copy to:

Chief, New Jersey Superfund Branch  
Office of Regional Counsel  
United States Environmental Protection Agency  
290 Broadway, 17th Floor  
New York, New York 10007-1866  
Attention: Cornell-Dubilier Electronics Site Attorney

62. Within thirty (30) days after completion of all activities required under this Order and receipt of all validated sampling results, Respondents (in cooperation and coordination with the Performing Parties) shall submit for EPA review and approval a Final Report summarizing the actions taken to comply with this Order. The Final Report shall conform, at a minimum, with the requirements set forth in Section 300.165 of the NCP, entitled "OSC Reports." The Final Report shall include:

- a. a synopsis of all Work performed under this Order;
- b. a detailed description of all EPA-approved modifications to the Work Plan which occurred during Respondents' performance of the Work required under this Order;
- c. a listing of quantities and types of materials removed from the Residential Areas or handled at the Residential Areas;
- d. a discussion of removal and disposal options considered for those materials;
- e. a listing of the ultimate destination of those materials;
- f. a presentation of the analytical results of all sampling and analyses performed, including QA/QC data and chain of custody records;

g. accompanying appendices containing all relevant documentation generated during the work (e.g., manifests, invoices, bills, contracts, and permits).

h. an accounting of expenses incurred by the Respondents at the at the Residential Areas.

i. the following certification signed by a person who supervised or directed the preparation of the Final Report:

"I certify that the information contained in and accompanying this certification is true, accurate, and complete."

63. EPA either will approve the Final Report or will require modifications thereto pursuant to Paragraphs 54-57, above.

#### Oversight

64. During the implementation of the requirements of this Order, Respondents and their contractor(s) and subcontractors shall be available for such conferences with EPA and inspections by EPA or its authorized representatives as EPA may determine are necessary to adequately oversee the work being carried out or to be carried out by Respondents, including inspections at the Site and at the Residential Areas and at laboratories where analytical work is being done hereunder.

65. Respondents and their employees, agents, contractor(s) and consultant(s) shall cooperate with EPA in its efforts to oversee Respondents' implementation of this Order.

#### Community Relations

66. Respondents shall cooperate with EPA in providing information relating to the work required hereunder to the public. As requested by EPA, Respondents shall participate in the preparation of all appropriate information disseminated to the public; participate in public meetings which may be held or sponsored by EPA to explain activities at or concerning the and the Residential Areas; and provide a suitable location for public meetings, as needed.

## Access to Property and Information

67. EPA, NJDEP and their designated representatives, including, but not limited to, employees, agents, contractor(s) and consultant(s) thereof, shall be permitted to observe the Work carried out pursuant to this Order. Respondents shall at all times permit EPA, NJDEP, and their designated representatives full access to and freedom of movement at the Site and at the Residential Areas and any other premises where Work under this Order is to be performed for purposes of inspecting or observing Respondents' progress in implementing the requirements of this Order, verifying the information submitted to EPA by Respondents, conducting investigations relating to contamination at the Site and at the Residential Areas, or for any other purpose EPA determines to be reasonably related to EPA oversight of the implementation of this Order.

68. In the event that action under this Order is to be performed in areas owned by or in possession of someone other than Respondents, Respondents shall use their best efforts to obtain access agreements from the present owners within twenty (20) days of the effective date of this Order. Such agreements shall provide access not only for Respondents, but also for EPA and its designated representatives or agents, as well as NJDEP and its designated representatives or agents. Such agreements shall specify that Respondents are not EPA's representatives with respect to liability associated with Site activities. If such access agreements are not obtained by Respondents within the time period specified herein, Respondents shall immediately notify EPA of their failure to obtain access and shall include in that notification a summary of the steps Respondents have taken to attempt to obtain access.

69. Subject to the United States' non-reviewable discretion, EPA may use its legal authorities to obtain access for Respondents, may perform those response actions with EPA contractors at the property in question, or may terminate the Order if Respondents cannot obtain access agreements. If EPA performs those tasks or activities with EPA contractors and does not terminate the Order, Respondents shall perform all other activities not requiring access to that property. Respondents shall integrate the results of any such tasks undertaken by EPA into its reports and deliverables.

70. Upon request, Respondents shall provide EPA with access to all records and documentation related to the conditions at the Site and at the Residential Areas, hazardous substances found at or released from the Site and at the Residential Areas, and the actions conducted pursuant to this Order except for those items, if any, subject to the attorney-client or work product privilege. Nothing

herein shall preclude the Respondents from asserting a business confidentiality claim pursuant to 40 CFR Part 2, Subpart B. All data, information and records created, maintained, or received by Respondents or their contractor(s) or consultant(s) in connection with implementation of the Work under this Order, including, but not limited to, contractual documents, invoices, receipts, work orders and disposal records shall, without delay, be made available to EPA upon request, subject to the same privileges specified above in this Paragraph. EPA shall be permitted to copy all such documents. Respondents shall submit to EPA upon receipt the results of all sampling or tests and all other technical data generated by Respondents or their contractor(s), or on the Respondents' behalf, in connection with the implementation of this Order.

71. Upon request by EPA, Respondents shall provide EPA or its designated representatives with duplicate and/or split samples of any material sampled in connection with the implementation of this Order.

72. Notwithstanding any other provision of this Order, EPA hereby retains all of its information gathering, access, and inspection authority under CERCLA, RCRA, and any other applicable statute or regulations.

#### Record Retention, Documentation, Availability of Information

73. Respondents shall preserve all documents and information relating to Work performed under this Order, or relating to the hazardous substances found on or released from the Site and at the Residential Areas, for ten years after completion of the Work required by this Order. At the end of the ten year period, Respondents shall notify EPA at least thirty (30) days before any such document or information is destroyed that such documents and information are available for inspection. Upon request, Respondents shall provide EPA with the originals or copies of such documents and information.

74. All documents submitted by Respondents to EPA in the course of implementing this Order shall be available to the public unless identified as confidential by Respondents pursuant to 40 CFR Part 2, Subpart B, and determined by EPA to merit treatment as confidential business information in accordance with applicable law. In addition, EPA may release all such documents to NJDEP, and NJDEP may make those documents available to the public unless Respondents conform with applicable state law and regulations regarding confidentiality. Respondents shall not assert a claim of confidentiality regarding any monitoring or hydrogeologic data, any

information specified under Section 104(e)(7)(F) of CERCLA, or any other chemical, scientific or engineering data relating to the Work performed hereunder.

#### Off-Site Shipments

75. All hazardous substances, pollutants, or contaminants removed from the Site and from the Residential Areas pursuant to this Order for off-Site treatment, storage, or disposal shall be treated, stored, or disposed of in compliance with (a) Section 121(d)(3) of CERCLA, 42 U.S.C. §9621(d)(3), (b) Section 300.440 of the NCP, (c) RCRA, (d) the Toxic Substances Control Act ("TSCA"), 15 U.S.C. §2601, et seq., and (f) all other applicable federal and state requirements.

76. If hazardous substances from the Site and the Residential Areas are to be shipped outside of the State of New Jersey, Respondents shall provide prior notification of such out-of-state waste shipments in accordance with OSWER Directive 9330.2-07. At least five (5) working days prior to out-of-state waste shipments, Respondents shall notify the environmental agency of the accepting state of the following: (a) the name and location of the facility to which the wastes are to be shipped; (b) the type and quantity of waste to be shipped; (c) the expected schedule for the waste shipments; (d) the method of transportation and name of transporter; and (e) treatment and/or disposal method of the waste streams.

77. Certificates of destruction, in the event that any waste is destroyed pursuant to this Order, must be provided to EPA upon Respondents' receipt of such. These certificates must be included in the biweekly progress reports.

#### Compliance With Other Laws

78. All actions required pursuant to this Order shall be performed in accordance with all applicable local, state, and federal laws and regulations except as provided in CERCLA §121(e)(1), 42 U.S.C. §9621(e)(1), and 40 CFR §300.415(i). In accordance with 40 CFR §300.415(I), all actions at the Site and at the residential areas required pursuant to this Order shall, to the extent practicable, as determined by EPA, considering the exigencies of the situation, attain applicable or relevant and appropriate requirements ("ARARs") under federal environmental or state environmental or facility siting laws. (See "Superfund Removal Procedures: Guidance on the Consideration of ARARs During Removal Actions," OSWER Directive No. 9360.3-02, August 1991).

79. Except as provided in Section 121(e)(1) of CERCLA, 42 U.S.C. §9621(e)(1), and the NCP, no permit shall be required for any portion of the Work required hereunder that is conducted entirely on-Site and at the Residential Areas. Where any portion of the Work requires a federal or state permit or approval, Respondents shall submit timely applications and shall take all other actions necessary to obtain and to comply with all such permits or approvals. This Order is not, nor shall it be construed to be, a permit issued pursuant to any federal or state statute or regulation.

#### Emergency Response and Notification of Releases

80. Upon the occurrence of any event during performance of the Work required hereunder which, pursuant to Section 103 of CERCLA, 42 U.S.C. §9603, requires reporting to the National Response Center [(800) 424-8802], Respondents shall immediately orally notify EPA Region II of the conditions at the Site and at the Residential Areas by calling the EPA Region II Emergency 24-hour Hot Line at (732) 548-8730. Respondents shall also submit a written report to EPA within seven (7) days after the onset of such an event, setting forth the events that occurred and the measures taken or to be taken, if any, to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. The reporting requirements of this Paragraph are in addition to, not in lieu of, reporting under CERCLA Section 103, 42 U.S.C. §9603, and Section 304 of the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. §11004.

81. In the event of any action or occurrence during Respondents' performance of the requirements of this Order which causes or threatens to cause a heretofore unknown release of a hazardous substance or which may present an imminent and substantial threat to public health or welfare or the environment, Respondents shall immediately take all appropriate action to prevent, abate, or minimize the threat and shall immediately notify EPA as provided in the preceding Paragraph. Respondents shall take such action in accordance with applicable provisions of this Order including, but not limited to, the Health and Safety Plan. In the event that EPA determines that (a) the activities performed pursuant to this Order, (b) significant changes in conditions at the Site and at the Residential Areas, or (c) emergency circumstances occurring at the Site and at the Residential Areas pose an imminent and substantial threat to human health or the environment, EPA may direct Respondents to stop further implementation of any actions pursuant to this Order or to take other and further actions reasonably necessary to abate the threat.

82. Nothing in the preceding Paragraph shall be deemed to limit any authority of the United States to take, direct, or order all appropriate action to protect human health and the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances on, at, or from the Site from the Residential Areas.

#### Delay in Performance

83. Any delay in performance of this Order that, in EPA's judgment, is not properly justified by Respondent under the terms of Paragraph 84 below, shall be considered a violation of this Order. Any delay in performance of this Order shall not affect Respondent's obligations to perform all obligations fully under the terms and conditions of this Order.

84. Respondent shall notify EPA of any delay or anticipated delay in performing any requirement of this Order. Such notification shall be made by telephone to EPA's OSC within forty-eight (48) hours after Respondent first knew or should have known that a delay might occur. Respondent shall adopt all reasonable measures to avoid or minimize any such delay. Within five (5) business days after notifying EPA by telephone, Respondent shall provide written notification fully describing the nature of the delay, any justification for the delay, any reason why Respondent should not be held strictly accountable for failing to comply with any relevant requirements of this Order, the measures planned and taken to minimize the delay, and a schedule for implementing the measures that have been or will be taken to mitigate the effect of the delay. Increased cost or expense associated with the implementation of the activities called for in this Order is not a justification for any delay in performance.

#### Enforcement and Reservation of Rights

85. Respondents shall be subject to civil penalties under Section 106(b) of CERCLA, 42 U.S.C. § 9606(b), in the event that Respondents willfully violate, or fail or refuse to comply with this Order without sufficient cause. Such civil penalties shall be in an amount not greater than \$27,500 per day, subject to possible further adjustments of this penalty maximum consistent with the Debt Collection and Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321 (1996), and the regulations promulgated thereunder, including the Civil Monetary Penalty Inflation Adjustment Rule, 61 Fed. Reg. 69360 (December 31, 1996).

86. In addition, failure to properly carry out response actions



under this Order, or any portion hereof, without sufficient cause, may result in liability under Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3), for punitive damages in an amount at least equal to, and not more than three (3) times the amount of any costs incurred by EPA as a result of such failure to take proper action.

87. Should Respondents violate this Order or any portion thereof, EPA may carry out the required actions unilaterally, pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604, and/or may seek judicial enforcement of this Order pursuant to Section 106 of CERCLA, 42 U.S.C. § 9606.

88. Nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, or hazardous or solid waste on, at, or from the Site and the Residential Areas. Further, nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Order, from taking other legal or equitable action as it deems appropriate, or from requiring the Respondents in the future to perform additional activities pursuant to CERCLA or any other applicable law. EPA reserves the right to bring an action against Respondents under Section 107 of CERCLA, 42 U.S.C. § 9607, for recovery of any response costs incurred by the United States related to this Order or the Site.

#### Other Claims

89. By issuance of this Order, the United States and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondents or Respondents' employees, agents, contractors, or consultants in carrying out any action or activity pursuant to this Order. The United States or EPA shall not be held out as or deemed a party to any contract entered into by the Respondents or their directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out actions pursuant to this Order.

90. Nothing in this Order constitutes or shall be construed as a satisfaction of or release from any claim or cause of action against the Respondents or any person not a party to this Order for any liability that Respondents or other persons may have under CERCLA, other statutes, or the common law, including but not limited to any claims of the United States for injunctive relief, costs, damages, and interest under Sections 106(a) and 107 of

CERCLA, 42 U.S.C. §§9606(a) and 9607. Nothing herein shall constitute a finding that Respondents are the only responsible parties with respect to the release and threatened release of hazardous substances at and from the Site and the Residential Areas.

91. Nothing in this Order shall affect any right, claim, interest, defense, or cause of action of any party hereto with respect to third parties.

92. Nothing in this Order shall be construed to constitute preauthorization under Section 111(a)(2) of CERCLA, 42 U.S.C. §9611(a)(2), and 40 CFR §300.700(d).

#### Insurance

93. At least seven (7) days prior to commencing any Work at the Residential Areas, Respondents shall submit to EPA a certification that Respondents or their contractors and subcontractors have an insurance coverage of not less than one million dollars (\$1,000,000) or have indemnification for liabilities for injuries or damages to persons or property which may result from the activities to be conducted by or on behalf of Respondents pursuant to this Order. Respondents shall ensure that such insurance or indemnification is maintained for the duration of the Work required by this Order.

#### Financial Assurance

94. Respondents shall demonstrate their ability to complete the Work required by this Order and to pay all claims that arise from the performance of the Work by obtaining and presenting to EPA within twenty (20) days of the effective date of this Order by one or more of the following: (1) a performance bond; (2) a letter of credit; (3) a guarantee by a third party; or (4) internal financial information to allow EPA to determine that Respondents have sufficient assets available to perform the Work. Respondents shall demonstrate financial assurance in an amount no less than the estimated cost of the Work to be performed by the Respondents under this Order. If EPA determines that the financial assurances submitted by Respondents pursuant to this Paragraph are inadequate, Respondents shall, within fifteen (15) days after receipt of notice of EPA's determination, obtain and present to EPA for approval additional financial assurances meeting the requirements of this Paragraph.

#### Modifications

95. No informal advice, guidance, suggestion, or comment by EPA regarding reports, plans, specifications, schedules, or any other writing submitted by the Respondents shall relieve Respondents of their obligation to obtain such formal approval as may be required by this Order and to comply with all requirements of this Order unless it is formally modified.

#### Termination and Satisfaction

96. Upon a determination by EPA (following its receipt of the Final Report referred to in Paragraph 62, above) that the Work required pursuant to this Order has been fully carried out in accordance with this Order, EPA will so notify Respondents in writing.

#### Opportunity to Confer and Effective Date

97. This Order shall be effective six (6) days after receipt by Respondent, unless a conference is timely requested pursuant to Paragraph 98 below. If such a conference is timely requested, this Order shall become effective one (1) day following the date the conference is held, unless the effective date is modified by EPA. All times for performance of ordered activities shall be calculated from this effective date.

98. Respondent may, within five (5) days after receipt of this Order, request a conference with EPA to discuss this Order. If requested, the conference shall occur within three (3) days of Respondent's request for a conference.

99. The purpose and scope of the conference shall be limited to issues involving the implementation of the work required by this Order and the extent to which Respondent intends to comply with this Order. This conference is not an evidentiary hearing, and does not constitute a proceeding to challenge this Order. It does not give Respondent a right to seek review of this Order or to seek resolution of potential liability, and no official stenographic record of the conference will be made. At any conference held pursuant to Respondent's request, Respondent may appear in person or by an attorney or other representative.

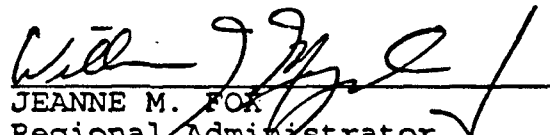
100. A request for a conference must be made by telephone to Muthu Sundram, Assistant Regional Counsel, Office of Regional Counsel, EPA Region II, telephone (212) 637-3148, followed by written confirmation mailed that day to Mr. Sundram and the OSC at the addresses set forth in Paragraph 61 of this Order.

#### Notice of Intent to Comply

101. Each Respondent shall provide, not later than seven (7) days after the effective date of this Order, written notice to EPA to the EPA addressees listed in Paragraph 61 stating whether such

Respondent will comply with the terms of this Order. If a Respondent does not unequivocally commit to perform the Work required by this Order, it shall be deemed to have violated this Order and to have failed or refused to comply with this Order. Each Respondent's written notice shall describe, using facts that exist on or prior to the effective date of this Order, any "sufficient cause" defenses asserted by such Respondent under Sections 106(b) and 107(c)(3) of CERCLA. Each Respondent's written notice shall be sent to the EPA addressees listed in Paragraph 61 above. The absence of a response by EPA to the notice required by this Paragraph shall not be deemed to be an acceptance of Respondent's assertions.

U.S. ENVIRONMENTAL PROTECTION AGENCY

  
JEANNE M. FOX  
Regional Administrator  
U.S. Environmental Protection Agency  
Region II

4/28/99  
Date of Issuance